IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.825 OF 2004

Caravan Roadways Limited .. Plaintiff

versus

Boving Fouress Limited .. Defendant

...

Ms.Leena Kambli for Plaintiff.

CORAM : D.G. KARNIK, J

DATED : 24th January 2005.

P.C:-

1. Despite service of the writ of summons, the defendant has not filed an appearance. Hence, this suit is listed for ex parte hearing under Rule 226 of the Bombay High Court (Original Side) Rules, 1980.

2. The plaintiff has filed this suit for recovery of the amount of bill for transportation of the goods. The plaintiff has filed on record the original documents under list dated 23rd June, 2003. The documents are taken on record and collectively marked

Exhibit A. The defendants placed an order on the plaintiff. The original order is filed at Serial no 1 of the list. The defendants accepted the order and transported the goods and sent the bill. Xerox copy of the bill is filed at serial no.2 of the list. The defendants deducted Rs.1,480/- as tax at source and sent the plaintiff tax deduction certificate. A copy is filed at serial no.3. The defendants did not make any payment. The office copies of the demand and acknowledgement are also filed on record.

3. After service of the suit summons, the defendant did not file an appearance. The affidavit of service sworn in by Mr. Rane clerk in the office of Sheriff of Bombay is filed on record. The affidavit is also taken on record and marked Exhibit B. As the defendants did not appear the plaintiff is entitled to a decree under sub-rule 3 of Rule 2 of Order 37 of the Code of Civil Procedure.

4. In view of the documents which are produced on record I see no reason to deny the decree except the claim for interest which is prior to the suit and which is given up by learned counsel for the

plaintiff.

The suit of the plaintiff is decreed as follows:

. " The defendants shall pay to the plaintiff a sum of Rs.66,082/- together with interest at 9 % p.a. from the date of the suit till payment and all costs of the suit."

D.G.KARNIK, J